



## EDS Terms & Conditions-Sponsored Listing

Please read the following agreement carefully before continuing. This agreement will serve as a legal contract between you (and your dental practice) and Emergency Dental Service. When you decide to move forward with retaining the marketing services of Emergency Dental Service, it is necessary to enter into the participation of the agreement provided below.

Once you accept the terms and conditions and move to the next step in the registration process. You acknowledge that you have read and understand all of the agreement, including your responsibility to notify Emergency Dental Service of any changes in your business that may affect the agreement. You agree to enter into this agreement electronically and receive notifications, reports, invoices, and other communication electronically.

You may send notice to withdraw your consent to receive electronic communication at any time by sending an email communication to: [info@emergencydentalservice.com](mailto:info@emergencydentalservice.com) or by physical mail to the following address: 2011 Bolton Road, Suite 201, Atlanta GA 30318.

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### Emergency Dental Service Marketing Agreement

This Agreement is entered into by Emergency Dental Service (the "Company") and you (also referred to as "Participant"). The Agreement is effective as of the date you complete the completed online registration process. Whereas, Emergency Dental Service has created and designed a unique Internet website landing page, digital marketing & display advertising campaigns, local community referral partnerships, and online directory listings, as a means of attracting patients for dental practices ("Program"); Whereas, the Company has expended substantial time, effort and resources in the design of the Program which has the potential of reaching out to prospective patients; Whereas, the Program is a marketing campaign for promoting and advertising your dental services to potential patients; Whereas, the Company is creating awareness on a localized basis to prospective patients seeking emergency dental care services.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties agree to the following terms:

#### 1. Marketing Services

The Company hereby grants to you the right to participate in its Program with the limited non-exclusive right to use the Program, all subject to the terms and conditions of this Agreement. You agree and acknowledge that all documents, creative marketing materials, logos, website landing pages, online directory listings, and resources relating to the Program are and remain the property of the Company.

#### 2. Term.

The term of this Agreement shall be on a month-to-month basis or paid annually if the participant chooses that as a subscription payment option. Thereafter, the term of this Agreement shall automatically renew itself every month or annually. Termination of the marketing agreement shall be granted by either party upon a 30-day written notice (electronic mail or physical mail) to the other party.

### **3. Marketing Fees & Billing.**

You will be charged five hundred dollars (\$500) per month (\$6,000 annually) for a Sponsored Listing on the EDS website with locked in top tier placement within 20 miles of your office location. Your monthly subscription fee is payable through the credit/debit card that you have stored in the Company's billing system. Your credit/debit card will be charged on the same date each month based on the signup date.

If payment is declined or not submitted by the due date (5<sup>th</sup> of each month), a 3% late fee per day will be added to the "Participant's" invoice total. If payment is not received within 30 days, the total amount including all late fees will be forwarded to a collection agency.

## **Independent Contractor.**

It is the express intent and understanding of the parties that the relationship between the Company and Participant is that of an independent contractor. You shall not be deemed an employee or servant of the Company and nothing in this Agreement is intended to create a partnership and/or joint venture or any other relationship, other than an independent contractor relationship between the parties. Any patient treated by Participant through this Program is solely and exclusively the Participant's patient. You have total discretion to turn down a patient and not provide dental services. Participant has the ability to charge and provide services as deemed professionally appropriate and consistent with the applicable standards of care. Participant will treat each patient for all purposes as its patient and will hold said patient responsible for payment of any charges for dental services.

### **1. Duties of the Company.**

The Company will provide the following services: (a) Manage and create marketing and advertising campaigns, internet website landing pages, and community referral partnerships which are accessible to potential dental patients (b) Set-up call tracking and an answering service to schedule all potential patients directly with your office (c) Create an online appointment request system that will integrate directly with your dental office (d) Record phone calls for quality assurance and auditing purposes.

### **2. Eligibility of Participant.**

To be eligible to participate in the Program, You acknowledge and confirm that "Participant": (a) Is currently licensed in the state in which you practice; (b) Maintains professional liability insurance for the practice of dentistry with a minimum coverage of \$1,000,000 per occurrence and \$3,000,000 aggregate; (c) Have no or have not had any state dental board disciplinary action in the last ten (10) years; and (d) Agree to immediately notify Company of any circumstances that would change Participants eligibility or legal ability to participate in the Program.

### **3. Obligations of Participants.**

You represent, acknowledge, and warrant that: (a) You are solely responsible for providing quality dental care and meeting the applicable standard of care for your services; (b) Any advertising and marketing information that you provide for the host website is true and accurate in all respects; (c) You are properly licensed and qualified in the jurisdiction of your practice and have a current license which license has not been suspended or revoked and that in the past ten (10) years, you have not been subject to any disciplinary action by any licensing or accrediting body; (d) Any certifications or specialties are true and accurate and have been earned by you as the holder of those certifications or specialties and they have not been revoked; (e) You have up to date facilities and equipment for the treating of all patients and that you have adequately trained your staff to provide services to prospective Program patients; (f) You will treat and provide services to Program patients in a professional manner consistent with the applicable standard of care; (g) If you are a corporation or a business entity, you are duly organized and existing under the State law and have all the requisite power and authority to execute, deliver and perform all of the obligations under this Agreement; (h)



## EMERGENCY DENTAL SERVICE

You will comply with all federal, state and local laws and regulations applicable to you and your profession at

all times; (i) You are solely responsible and will notify Program of any laws or regulations as they relate to Program. Please note that each state has its own statutes and regulations (including but not limited to dental advertisement rules or regulations governing when referral services are permitted) it is your duty to notify Company of any legal requirements as related to Program. If a legal requirement requires a change of content to website, Company shall reasonably implement such change upon receiving written notice from you.

### **4. Liability and Indemnity.**

Participant hereby agrees to indemnify and hold Company, and its officers, directors, employees, and agents harmless from and against any and all claims, actions or proceedings of any kind and any losses, costs, damages, liabilities or expenses (including, but not limited to, reasonable attorneys' fees at all levels of trial and appeal) incurred by, imposed upon or asserted against Company, and its officers, directors, employees, and agents, resulting from or in connection with (i) Any intentional, grossly negligent or negligent acts or omissions of Participant, or any of its shareholders, officers, directors, employees, contractors, or agents; (ii) Any misrepresentation or breach of any warranty made by Participant under this Agreement, including but not limited to Participant's failure to disclose to Program legal regulatory requirements imposed upon Participant (iii) The breach of any covenant, agreement, or obligation of Participant under this Agreement; and (iv) Any act or omission from Participant, Participant employees, agents and/or subcontractors in the performance of dental services, including but not limited to professional misconduct, negligence or intentional acts or omissions for any Program patient.

### **5. Termination.**

The Company and Participant may terminate the Agreement at any time without cause, upon providing a 30-day notice to the other party. Upon termination or expiration of this Agreement, Participant shall immediately return all confidential information, documents, ad copy, design concepts, web pages, and tracking phone numbers to the Company. Termination or expiration of this Agreement shall not affect any liabilities or obligations, including without limitation, payment, and indemnification obligations, which arose pursuant to the terms of this Agreement prior to the termination or expiration thereof.

### **6. Disclaimer.**

The Company disclaims any warranties or representations regarding the Program's marketing and advertising. The Program is provided to the Participant with no warranty of any kind. The Company expressly disclaims all warranties, express or implied, regarding the services, advertising and all communications through the Program services, including any implied warranty of quality, availability, merchantability, fitness for particular purpose or non-infringement. In addition, the Company makes no representations that the content of any materials for advertising will be error free. Under no circumstances shall the Company, its employees and agents be liable for any indirect, incidental, consequential, special or exemplary damages arising out of or in connection with the Program. Further, the Participant acknowledges that it has made no reliance upon any representation relating to the amount of revenues or potential patients, which may be seen by Participant as use of the Program. The Company makes no representation that the operation of its site will be uninterrupted or error free and will not be liable for the consequences of any interruptions or errors. The Company will take reasonable steps to clear the interruption of the website or if it is unable to do so, Participant may cancel this Agreement. The Company reserves the right to change, modify and delete any content on its website in its sole and absolute discretion. The Company reserves the right to approve all content on the website.

### **7. Waiver.**

Failure of either party to insist upon strict compliance with any terms, covenants and conditions of this Agreement shall not be deemed a waiver of such terms, covenants or conditions of this Agreement.

## **8. Assignment.**

This Agreement and the terms and provisions thereof shall inure to the benefit and be binding upon the parties, their respective successors, heirs and personal representatives. Participant shall have no right to assign this Agreement or any of his/her rights or obligations hereunder to another party or parties except that Participant shall have the right to assign the Agreement to a wholly-controlled entity or wholly-owned affiliate of Participant upon the written permission of the Company.

## **9. Notices.**

Whenever under the terms of this Agreement either party gives or is required to give notice to the other, that notice shall be deemed to be given when one party sends notice to the other by first class mail, confirmed fax or confirmed email. The date of mailing or faxing to the other party shall be deemed to be the date of the notice. Notice shall be given to the parties at the physical addresses; emails addresses or fax numbers provided. Either party can change the place of notice by giving the other party written notice as provided herein of such changed address.

## **10. Arbitration.**

Any dispute arising out of, in connection with or related to this Agreement shall be brought in the judicial tribunal having jurisdiction thereof and the parties agree that any and all other disputes arising of or in connection with or related to this Agreement shall be determined and settled by binding arbitration. In good faith, both parties will work to resolve all issues within 90 days through negotiation and discussion, if both parties cannot come to a favorable resolution, then arbitration will take place. The binding arbitration shall take place in Atlanta, GA in accordance with the rules of the American Arbitration Association and the parties agree and confirm that Georgia law shall be applicable to all disputes under this Agreement. Any award by the arbitration panel shall be final and conclusive as to all issues determined and shall be enforceable by any court of law. For all arbitration proceedings, each party shall pay for its own attorneys' fees and costs notwithstanding any law or right and each party shall pay one-half (1/2) of the costs of arbitration. It is specifically agreed that no compensatory, exemplary, or punitive damages of any kind shall be made as a part of any arbitration award.

## **11. Miscellaneous.**

This is the entire agreement of the parties hereto and supersedes all previous agreements and understandings, whether oral or written, relating to the subject matter hereof, and shall not be changed or modified orally but only upon written notice in the manner first above described. This agreement shall be construed by and shall be governed in accordance with the laws of the State of Georgia, except as modified specifically here in. All exhibits attached hereto are incorporated herein and are a part of this agreement. And all provisions of the exhibits are enforceable obligations of the respective party.